JS 44 (Rev. 3/99)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

FILED
08 MAY 29 PM 2:54
CLERK, U.S. DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA
BY: cf DEPUTY

I. (a) PLAINTIFFS
BURK N. ASHFORD

(b) County of Residence of First Listed Plaintiff: San Diego-CA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
In Propria Persona

DEFENDANTS
GOEPPINGER-CURRAN DEVELOPMENT LLC, THOMAS W. CURRAN, PAUL W. GOEPPINGER, F. VIRGINIA GOEPPINGER and DOES 1-20

County of Residence of First Listed: San Diego, CA
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)
Lawrence Alesio
2550 Fifth Avenue
San Diego, CA 92103

'08 CV 0949 WQH RBB

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☒ 1	☐ 1	Incorporated or Principal Place of Business In This State	☐ 4	☒ 4
Citizen of Another State	☐ 2	☒ 2	Incorporated and Principal of Business In Another State	☐ 5	☒ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☒ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury—Med. Malpractice
- ☐ 365 Personal Injury — Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 444 Welfare
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence Habeas Corpus:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition

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- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Regs.
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt.Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
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BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

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- ☐ 830 Patent
- ☐ 840 Trademark

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- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reapportionment
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- ☐ 430 Banks and Banking
- ☐ 450 Commerce/ICC Rates/etc.
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 875 Customer Challenge 12 USC 3410
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- ☐ 900 Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State Statutes
- ☐ 890 Other Statutory Actions

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Real Estate Contract Default, appeal from California Appellate Court, Title 28 USC, Section 1441

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION DEMAND UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE ____ DOCKET NUMBER ____

DATE: May 27, 2008

SIGNATURE OF ATTORNEY OF RECORD: Burk N. Ashford

CR

Burk N. Ashford
1462 Red Bark Rd
Escondido, CA 92029
(760) 743-5471

FILED
08 MAY 29 PM 2:54
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
880 Front Street
San Diego, CA 92101

Burk N. Ashford,
Plaintiff
vs
Goeppinger-Curran Development LLC, Thomas W. Curran, Neil W. Goeppinger, F. Virginia Goeppinger, and Does 1 to 20...,
Defendant(s)

Case No. '08 CV 0949 WQH RBB

COMPLAINT

COMPLAINT FOR
REAL ESTATE CONTRACT DEFAULT

Comes now the Plaintiff, Burk N. Ashford, who alleges that this complaint is for Default by the Defendant(s) in a Real Estate Contract executed in the County of San Diego in the State of California. Further the Plaintiff makes known that this Complaint is essentially an appeal from the Superior Court of the State of California and subsequently the Appellate Court and the California Supreme Court.

STATEMENT OF THE CASE

The Plaintiff (Ashford) did execute a D.R.O.A. (deposit-receipt-offer-and acceptance) for a parcel of land with the Defendant(s) (Curran). Exhibit attached. Plaintiff did make known to the Defendant(s) that the property was being purchased for the purpose of building a spec home and was subject to conclusion of obtaining building and appurtenant permits and funding as soon as the permit process was completed.

It should be noted herein, that the defendant (Curran) did not disclose that he was not the sole owner, nor that he possessed a real estate license or that the sellers would be doing a 1031 exchange of the property or the fact that this was the last parcel and the final completion for the subdivision had not been applied for from the County. Further, Goeppinger-Curran Dev. LLC was not a California Corporation but was an Iowa entity operating illegally in the State of California presumably for evasion of California taxes and became a California Corporation after suit was filed against them.

Subsequently, the permit process was halted due to the failure to obtain the completion process until late September. Upon issuance of the Certificate of Completion Plaintiff applied for and received a Septic Permit, and after reviews and amendments to the submitted building plans, a building permit was issued on or about December 15th. of that year. There were other delays due to the extreme fire damage to the area. Upon agreement of all parties the closingand loan process was adjourned until after the New Year. Following the New Year, Sellers asked for a final date for the sale and and extension of 45 days to February 29th was agreed upon and executed. During this course of events the future home was purchased and went into escrow subject to completion. The original construction home lender was using incoming funds for projects of preference and to accommodate the purchase date an alternate stand-by investor tendered payment in full for the property on behalf of Plaintiff (Ashford).

Upon tender of funds - escrow contacted the seller (Curran) who ordered escrow to not accept payment. Following a patient amount of time - Plaintiff/Buyer (Ashford) filed suit in the California Superior Court. Please take special notice - that in the proceedings Defendant (Curran) and parties stated under oath that they had cancelled the sale and escrow. However in the trial proceedings Defendants through Counsel STIPULATED that escrow was never cancelled. Further - at trial Plaintiff had presented evidence of phone messages from Mr. Curran and had listed such evidence in his Court documents. Said messages clearly in Mr.Curran's own voice state that he was delaying escrow solely due to his desire to know who the investor was and what business relationship existed between Plaintiff and Investor -none of which was any of his business. Plaintiffs attorney did not present this evidence at trial as he felt it was part of a settlement negotiation - however the Plaintiff contends this is not protected speech due to settlement, but proof of Willful default and intentional Perjury and is now subject to being introduced and entered into the record.

Plaintiff has requested the Special Services Sheriff Department to obtain this evidence and schedule a time to review it and has failed to do so. Ergo the Plaintiff will move this Honorable Court for an order to produce the evidence.

The original assisting counsel to the Plaintiff inadvertantly left out a request for Specific Performance (which is basically all the Plaintiff is seeking) in the original Complaint and the amended complaint. In the ensuing Motions, substitutions, two defendant Demurrers and so forth - a great deal of time was eschewed. Specifically dilatory and delaying failure of the defendants to complete interrogatories to enable the Plaintiff to draft and submit properly a final amended complaint which included the request for Specific Performance.

It should be noted that in the filing of the Complaints, Defendant(s) through counsel were dilatory in filing their answer(s) and Demurrers. Plaintiff filed for Default on multiple occasions, and the clerks routinely failed to enter them and even mailed them back to the Plaintiff with imaginary and false excuses.

Due to the approaching cut-off date for motions - Plaintiff appeared In Ex Parte to file the served Amended Complaint. Within his own discretion Judge Michael Anello ruled that the Filing of the Complaint was not a priority that required an immediate ruling and that the Motion for the Amended Complaint would be heard in 30 days. At that hearing the same Judge denied the Motion to Amend ruling that there was not enough time even though the cut off date had not expired and there was no need for any further discovery and so forth.

This is clearly an abuse of discretion.

At the trial the subpoenaed escrow documents and escrow personnel failed to appear. The investor who tendered the funds on behalf of the Plaintiff failed to appear. All of these parties admit to collusion with the defendant(s) counsel to not appear and enable the plaintiff to prove his case. Counsel who appeared on behalf of the Plaintiff to conduct the trial realized he did not have subpoenaed witnesses and documents and moved for the case to be trailed to the next available time - he was refused. This is clearly an abuse of discretion.

The investor who tendered the check on behalf of the Plaintiff did appear on behalf of the Defendant(s) and inferred that he was acting as a loan agent to and for the Plaintiff in the employ of a company that the Plaintiff had never heard of and discredited the Plaintiff. Note that in the evidence submitted by the Defendants that subsequent to tendering the funds for the property in this case, the investor and the Defendants entered into a separate escrow on this property between themselves - which is probably illegal and at least unethical.

An additional investor who made known he would tender payment in full was denied the opportunity to testify as to how he was able to estimate the value to justify the cost of the property. Such was an abuse of discretion and prejudicial against the Plaintiff. Further the presiding Judge blocked introduction of crucial evidence that was clearly listed as evidence and to which defense counsel did state and admit that he had received such evidence, clearly this is an abuse of discretion and prejudicial against the Plaintiff - further this evidence did include the costs and expenses of the Plaintiff.

Following the trial, Judge Michael Anello exceeded his authority and used an abuse of discretion to rule that the escrow was cancelled and that the Plaintiff had no case. However, all of the defendants arguments at trial were that they were solely liable for any increase in value of the property from the date of the sale to the defaulted closing and did STIPULATE that escrow was never cancelled. Motions for a dismissal and re-trial were denied. One of said Motions hearing date was never served upon the Plaintiff and heard in his absence.

Subsequently - the case was appealed to the Fourth Appellate District Division One which upheld the decisions and abuse of discretions of Judge Michael Anello. Among some of the Appellate Court's ruling was that the Plaintiff offered no cases for his arguments. Quite frankly on page ii-i of the Reply Brief - multiple cases and page references were set forth. It was presumed that the Hierarchy of the Dais were the most discerning intellectual minds of the legal community and they would be able to assimilate and discern the cases and apply them to the proper arguments. Apparently I was wrong in that assumption. The end result is the continued abuse of discretion and exceeding their authority.

A Petition for Review was then submitted to the California Supreme Court - which sent a Notice to the Plaintiff that "Petition for Review is Denied". No case, law, statute or other reason was given. To wit, it is evident that the Ostrich Principle is in effect.

COURT OPTIONS

The Plaintiff, Burk N. Ashford, does hereby request this honorable Court to intercede and rectify the Lower Courts decisions and mismanagment, abuse of discretion and exceeding of authority.

1. The most obvious is - that this Court rule that the Review of the California Supreme Court is incomplete and that they need to undertake this case for a complete review and ruling prior to hearing in the Federal Court system.

2. Undertake this case from the California Court system and treat this case as any other and take it to trial on the evidence, testimony as submitted by the Plaintiff and the Defendant as if no trial had ever been held.

3. Review the actions of the lower Court and issue its own rulings;

   a. Failure of the Defendants to timely file a response and grant a default judgment.
   b. That the Plaintiff did timely and to the best of his ability, file and enter an amended complaint adding Specific Performance, and that such complaint should be honored and accepted and a new trial granted per se.
   c. That trial was prejudiced against the Plaintiff and that the trial and judgment should be set aside and dismissed.
   d. That the presiding Judge and ensuing appellant panelists did exceed their authority of discretion in their rulings.

The Plaintiff, Burk N. Ashford does hereby declare subject to penalty of perjury that all of the foregoing is true and correct to the best of his knowledge and belief. Plaintiff reserves the right to amend and correct errors and/or omissions.

Respectfully submitted,

Burk N. Ashford
In Propria Persona

Date: May 27, 2008

REAL ESTATE PURCHASE AGREEMENT AND RECEIPT FOR DEPOSIT

BROKER'S COPY

RECEIVED FROM Burk N. Ashford

hereinafter referred to as BUYER, the sum of [redacted] Two-Thousand and No/100 Dollars ($2,000.00) evidenced by ☐ Cash, ☐ Other (describe) ________ to be deposited the next business day following the date of acceptance as earnest money and part of the purchase price of One-Hundred Forty-Five Thousand Dollars ($145,000.00) for the following described real property situated in the City of Rural/Valley Center County of San Diego the State of CA., to wit:

APN: 133-312-86 (Curran Court)

upon the following **TERMS and CONDITIONS:**

1. **DEPOSIT INCREASE.** The deposit will be increased to $ N/A within N/A days from acceptance, evidenced by Cash.
2. **PRORATIONS.** Rents, taxes, interest and other expenses of the property to be prorated as of the date of recordation of the deed. Security deposits, advance rentals, or considerations involving future lease credits shall be credited to Buyer.
3. **PHYSICAL POSSESSION.** Physical possession, with all keys and garage door openers, shall be delivered to Buyer (check item 1 or 2):
   ☒ 1. When deed is recorded.
   ☐ 2. After deed is recorded, but not later than midnight of ________. Unless Seller has vacated the premises prior to recordation of deed, Seller shall pay Buyer $________ per day from date of recording to date of possession and leave in escrow a sum equal to the above per diem amount multiplied by the number of days from the date of closing to date allowed for delivery of possession. Said sum to be disbursed to the persons entitled thereto on the date possession is delivered.
4. **NOTICES.** By acceptance hereof, Seller warrants that he has no notice of violation relating to the property, from City, County, or State agencies.
5. **CLOSING.** On or before N/A or within 60 days from acceptance, whichever is later, both parties shall deposit with an authorized escrow holder all funds and instruments necessary to complete the sale in accordance with the terms hereof. Thereafter any party, including agent, may disclose the terms of sale. The representations and warranties herein shall not be terminated by conveyance of the property. Escrow fee to be paid by Buyer & Seller.
6. **MAINTENANCE.** Seller covenants that the air-conditioning (if any), heating, electrical, sprinkler (if any), sewer, septic system, drainage, and plumbing systems including the water heater, as well as any built-in appliances and other mechanical apparatus shall be in normal working order on the date occupancy is delivered. Seller shall replace any cracked or broken glass including windows, mirrors, shower and tub enclosures. Until occupancy is delivered, Seller shall maintain landscaping, grounds and pool (if any). Seller agrees to deliver the property in a neat and clean condition with all debris removed. The following items are specifically excluded from the above: N/A

Buyer and Seller understand and acknowledge that Broker (if any) shall not in any circumstances be liable for any breach in this clause.

(ITEMS 7 AND 8 APPLY IF PROPERTY IS IN CALIFORNIA.)

7. **REAL ESTATE TRANSFER DISCLOSURE STATEMENT.** Seller will comply with Sec. 1102 of the California Civil Code by providing Buyer, as soon as practicable, a completed Real Estate Transfer Disclosure Statement before the transfer of title.
8. **BUYER'S APPROVAL.** If the Real Estate Transfer Disclosure Statement is delivered after the execution of an offer to purchase, the Buyer is allowed to terminate the transaction by written notice delivered to Seller or Seller's agent within the time limit provided by Sec. 1102 of the California Civil Code and have all deposits returned less expenses incurred by Buyer to date of termination. Nothing disclosed by the Seller shall require Seller to correct or improve the condition disclosed except as otherwise agreed to in writing.
9. **ENCUMBRANCES.** In addition to any encumbrances referred to herein, Buyer shall take title to the property subject to: (1) Covenants, conditions, restrictions, rights-of-way and easements of record, if any, which do not materially affect the value or intended use of the property, and (2) Real Estate Taxes not yet due. The amount of any bond or assessment which is a lien shall be ☒ paid, or ☐ assumed by Seller. If assumed, the outstanding principal balance of such obligation ☐ shall ☐ shall not be credited to Buyer at close of escrow.
10. **EXAMINATION OF TITLE.** Fifteen (15) days from the date of acceptance hereof are allowed the Buyer to examine the title to the property and to report in writing any valid objections thereto. Any exceptions to the title which would be disclosed by examination of the records shall be deemed to have been accepted unless reported in writing within said fifteen (15) days. If Buyer objects to any exceptions to the title, Seller shall use due diligence to remove such exceptions at his own expense before close of escrow. But if such exceptions cannot be removed before close of escrow, all rights and obligations hereunder may, at the election of the Buyer, terminate and end, and the deposit shall be returned to Buyer, unless he elects to purchase the property subject to such exceptions.
11. **EVIDENCE OF TITLE.** In the form of ☒ a policy of title insurance, ☐ other X to be paid for by Seller.
12. **ACCESS TO PROPERTY.** Seller agrees to provide reasonable access to the property to Buyer, inspectors and appraisers representing Buyer.
13. **PERSONAL PROPERTY.** The following personal property, on the premises when inspected by Buyer is included in the purchase price and shall be transferred to Buyer by a Warranty Bill of Sale at close of escrow. No warranty is implied as to the condition of said property: N/A
14. **FIXTURES.** All items permanently attached to the property including attached floor coverings, draperies with hardware, shades, blinds, window and door screens, storm sash, combination doors, awnings, light fixtures, TV antennas, electric garage door openers, outdoor plants, and trees, are included free of liens.
15. **PROVISIONS ON THE REVERSE SIDE.** The provisions initialed by both Buyer and Seller are included in this agreement.
16. **DEFAULT.** In the event that Buyer shall default in the performance of this agreement, unless the parties have agreed to a provision for liquidated damages, Seller may, subject to any rights of the agent herein, retain Buyer's deposit on account of damages sustained and may take such action as he deems appropriate to collect such additional damages as may have been sustained, and Buyer shall have the right to take such action as he deems appropriate to recover such portion of the deposit as may be allowed by law. In the event that Buyer shall so default, unless Buyer and Seller have agreed to liquidated damages, Buyer agrees to pay to the brokers entitled thereto such commissions as would be payable by Seller in the absence of such default. Buyer's obligation to said brokers shall be in addition to any rights which said brokers may have against Seller in the event of default. In the event legal action is instituted by the broker or any party to this agreement to enforce the terms of this agreement, or arising out of the execution of this agreement or the sale, or to collect commissions, the prevailing party shall be entitled to receive from the other party a reasonable attorney fee to be determined by the court in which such action is brought.
17. **EXPIRATION.** This offer shall expire unless a copy hereof with Seller's written acceptance is delivered to Buyer or his Agent within 30 days.
18. **TIME.** Time is of the essence of this agreement.
19. **ADDITIONAL TERMS AND CONDITIONS.**

The undersigned buyer **HAS READ BOTH SIDES OF THIS AGREEMENT** and acknowledges receipt of a copy hereof. Buyer acknowledges further that he has not received or relied upon any statements or representations by the undersigned Agent (if any) which are not herein expressed.

None Real Estate Company DATED 6/8/2005 TIME 9:00 a.m./p.m.

By None Agent [signature] Buyer

Broker's Initials N/A Dated ________ ________ Buyer

ACCEPTANCE

Seller accepts the foregoing offer and agrees to sell the herein described property for the price and on the terms and conditions herein specified. **COMMISSION.** Seller hereby irrevocably assigns and agrees to pay to N/A, the Broker in this transaction, in Cash from proceeds at close of escrow, for services rendered: $ N/A. In the event that Buyer defaults and fails to complete the sale, the Broker shall be entitled to receive one-half of Buyer's deposit, but not more than the commission earned, without prejudice to Broker's rights to recover the balance of the commission from Buyer. The mutual rescission of this agreement by Buyer and Seller shall not relieve said parties of their obligations to Broker hereunder. This agreement shall not limit the rights of Broker provided for in any listing or other agreement which may be in effect between Seller and Broker, except that the amount of the commission shall be as specified herein.

The undersigned Seller hereby acknowledges receipt of a copy hereof. DATED 6/23 TIME X a.m./p.m.

None Real Estate Company [signature] Seller

Broker's Initials N/A Dated ________ ________ Seller

WOLCOTTS FORM 722Q - (price class 13D) - rev. 7-99
REAL ESTATE PURCHASE CONTRACT AND RECEIPT FOR DEPOSIT
© 1999 WOLCOTTS FORMS, INC.
(This form is also available as a single sheet: Wolcotts Form 722)

Before you use this form, fill in all blanks, and make whatever changes are appropriate and necessary to your particular transaction. Consult a lawyer if you doubt the form's fitness for your purpose and use. Wolcotts makes no representation or warranty, express or implied, with respect to the merchantability or fitness of this form for an intended use or purpose.

7 67775 92722 1

Exhibit "1"

[illegible] the Reasonable Value of the property established by the Veterans Administration. The buyer will, however, have the privilege and option of proceeding with the consummation of this contract without regard to the amount of the Reasonable Value established by the V.A. Escrow Fee to be paid by Seller.

B. FHA APPRAISED VALUE CLAUSE. It is expressly agreed that, notwithstanding any other provisions of this contract, the Buyer shall not be obligated to complete the purchase of the property described on the front of this agreement or to incur any penalty by forfeiture of earnest money deposits or otherwise unless the Seller has delivered to the Buyer a written statement issued by the Federal Housing Commissioner setting forth the appraised value of the property for mortgage insurance purposes of not less than the amount specified as purchase price, which statement the Seller hereby agrees to deliver to the Buyer promptly after such appraised value statement is made available to the Seller. The Buyer shall, however, have the privilege and option of proceeding with the consummation of this contract without regard to the amount of the appraised valuation made by the FHA Commissioner.

The appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and Urban Development will insure. HUD does not warrant the value or the condition of the property. The Buyer should satisfy himself/herself that the price and condition of the property are acceptable.

C. SPECIAL STUDIES ZONE DISCLOSURE. The property is situated in a Special Studies Zone as designated under Sections 2621-2625, inclusive, of the California Public Resources Code, and, as such, construction or development of any structure for human occupancy may require the submission of a favorable geological report by a registered geologist, unless such report is waived by the City or County under the terms of the act. No representations on the subject are made by Seller or agent. Buyer may make further independent inquiries at appropriate governmental agencies, concerning the use of the property under the terms of the Special Studies Zone Act. Buyer shall be deemed to be satisfied with the result of such inquiries unless written notice to the contrary is delivered to Seller or his agent within seven (7) days of acceptance, in which case Buyer may have his deposit returned and both parties shall be relieved of all obligations hereunder.

D. CONDOMINIUM DISCLOSURE. Buyer will take title subject to condominium declaration, covenants, conditions and restrictions, articles of incorporation, by-laws, rules and regulations currently in force, and financial statements, to be delivered to Buyer within five (5) days of acceptance. Such charges shall be credited to Buyer at close of escrow. Buyer shall be deemed to have approved said documents unless written notice to the contrary is delivered to Seller or his agent within five (5) days of receipt by Buyer. In addition, Seller shall deliver to Buyer before close of escrow a written statement from the condominium owners association documenting the amount of any delinquent assessments, including penalties, attorney's fees, and any other charges provided for in the management documents.

E. CITY AND COUNTY INSPECTIONS. According to local ordinance, a condition for sale or transfer of the property is that it must be inspected to make sure it complies with local building and permit regulations, standards and ordinances. Within five (5) days of acceptance Seller must notify the appropriate local agency to cause the property to be inspected at the earliest practicable date. If Seller is unable or unwilling to pay for corrections required, this agreement shall terminate and all deposits be returned to Buyer, unless Buyer agrees to pay the cost of corrections required.

F. PEST CONTROL INSPECTION. To be paid by ☐ Buyer ☐ Seller. A licensed structural pest control operator will inspect the main building and all attached structures. The Seller must pay for (1) Elimination of infestation and/or infection of wood-destroying pests or organisms; (2) repairing the damage caused by aforementioned infestation and/or infection; (3) rectifying the conditions which caused aforementioned damage; and (4) repair of plumbing leaks and other leaks affecting wood members, including the repair of leaky shower stalls, in accordance with aforementioned structural pest control operator's report. Seller will not be responsible for preventive work where no damage is found, except where required for FHA or VA financing.

If the inspecting structural pest control operator should recommend further inspection of inaccessible areas, Buyer may require that said areas be inspected. If no such infestation or infection is discovered, the additional cost of inspecting such inaccessible areas and the work required to return the property to its original condition must be paid by Buyer. If any infestation or infection is discovered by such inspection, the additional cost of such inspection and additional required work must be paid by Seller.

Funds for work required in accordance of said at Seller's expense will be held in escrow and disbursed by escrow holder upon receipt of Notice of Work Completed by a licensed structural pest control operator selected by Seller certifying that the property is free of evidence of active infestation or infection.

As soon as copies of the report are available, and any certificate or other proof of completion of the work is delivered to the agents of Buyer and Seller who are authorized to receive the same on behalf of their principals.

G. EXISTING PEST CONTROL REPORT ACCEPTED BY BUYER. Buyer accepts existing pest control report on the property by the licensed structural pest control operator listed below. Seller's obligations shall be as set forth in item 15-F above.

Report dated N/A By ____________________

H. WAIVER OF PEST CONTROL INSPECTION. Buyer is satisfied about the condition of the property described on the front of this form and agrees to purchase the property in its present condition without the performance of a structural pest control inspection.

Buyer acknowledges that he has not relied upon any representations by either the Broker or the Seller about the condition of the property.

I. AS IS, BUT SUBJECT TO BUYER'S APPROVAL OF INSPECTION REPORT. The property described on the front of this form will be purchased in its present condition with no charge to Seller for any pest control work. However, Buyer will have the right to have the property inspected and to obtain a report from a licensed structural pest control operator. Buyer will be deemed to have approved said report unless written notice to the contrary is delivered to Seller or Seller's agent within fifteen (15) days of acceptance. In the event Buyer does not approve the report, he may have his deposit returned and both parties shall be relieved of all obligations hereunder.

Buyer acknowledges that he has not relied upon any representations by either the Broker or the Seller about the condition of the property.

J. ROOF INSPECTION. To be ordered within N/A day of acceptance. The Buyer, at his expense, may order a roof inspection report from a licensed general or roofing contractor. Copies of the report must be delivered to the agents of Buyer and Seller authorized to receive said report on behalf of their respective principals.

Within three (3) days following receipt of the report, Seller may (1) choose to pay the cost of all work recommended by such report; or (2) choose to pay none or only a portion of the cost of such work. Seller will give written notice of his choice to Buyer or his agent.

If the Seller does not agree to pay for all work recommended in roof inspection report, Buyer may choose to pay the balance of the cost or such work or terminate all rights and obligations to the parties under this agreement. Written notice of Buyer's choice must be delivered to Seller or his agent within seven (7) days following receipt of Seller's notice. In the event of such termination, Buyer shall be entitled to a full refund of all deposits excluding the cost of the above roof inspection report. If no written choice is made within seven (7) days, Buyer will have no rights to terminate this agreement, and Seller will be responsible for the cost of that portion of the work which he chose to pay.

In the event Seller chooses to pay the cost of all such work, he will be able to choose a licensed general or roofing contractor to perform the work.

K. INSPECTION OF PHYSICAL CONDITION OF PROPERTY, POOL, SEPTIC TANK. Inspection report(s) of physical condition of the property including swimming pool., wells, if any, by a representative of Buyer's choice and at Buyer's expense must be ordered within two (2) days of acceptance. Seller to provide a septic tank inspection report at his expense. Approval of the report(s), at the discretion of the Buyer, to be given in writing within the number of days of receipt of said report(s) specified below, which approval shall not be unreasonably withheld. In the event Buyer does not approve of the report, he may have his deposit returned and both parties shall be relieved of all obligations under this agreement. Approved within N/A day of receipt of said report(s).

L. SMOKE DETECTORS. In accordance with California Law Smoke Detectors will be installed at the expense of the Seller. Seller hereby warrants to Buyer that the dwelling has an operable Smoke Detector and is therefore in compliance with the law. If required, said Smoke Detectors shall be inspected by appropriate City or County agency prior to close of escrow and a compliance report obtained.

M. FLOOD HAZARD ZONE. Buyer has been advised that the property is located in an area which the Secretary of HUD has found to have special flood hazards and that it will be necessary to purchase flood insurance in order to obtain any loan secured by the property from any federally regulated financial institution or a loan insured or guaranteed by an agency of the U.S. Government.

N. HOME PROTECTION CONTRACT. ☐ Paid by ____________ ☒ Waived by BNA. This contract will become effective upon the close of escrow for a period of not less than one year.

O. CONTINGENCY RELEASE CLAUSE. Subject to the sale and conveyance of "Buyer's Property" described below, within the time specified for closing of Seller's property. Seller shall have the right to continue to offer the herein described property for sale and to accept offers subject to the rights of Buyer. Should Seller accept such an offer, then Buyer shall be given written notice of such acceptance. In the event Buyer will not waive this condition in writing within three(3) days of receipt of such notice, then this agreement shall be terminated and all deposits be returned to Buyer and escrow canceled. Said notice may be personally delivered or mailed by certified mail and addressed to Buyer, in care of his agent identified herein. In the event of mailing, such notice shall be deemed to have been given on the day following the date of mailing evidenced by the postmark on the envelope containing such notice.

NOTICE: The California Department of Justice, sheriff's departments, police departments serving jurisdictions of 200,000 or more and many other local law enforcement authorities maintain for public access a data base of the locations of persons required to register pursuant to paragraph (1) of subdivision (a) of Section 290.4 of the Penal Code. The data base is updated on a quarterly basis and is a source of information about the presence of these individuals in any neighborhood. The Department of Justice also maintains a Sex Offender Identification Line through which inquiries about individuals may be made. This is a "900" telephone service. Callers must have specific information about individuals they are checking. Information regarding neighborhoods is not available through the "900" telephone service.

The undersigned Buyer hereby acknowledges receipt of a copy of the accepted agreement consisting of both sides.

DATED 6/9/03 TIME ________________ a.m./p.m.

____________________ Buyer [signature] Buyer

Buyer's address and phone number 1462 Rob Bark Rd ? Escondido, CA 92029 (760) 745-5471

Exhibit "A"

Court of Appeal, Fourth Appellate District, Div. 2 - No. D048647
S161539

IN THE SUPREME COURT OF CALIFORNIA

En Banc

BURK N. ASHFORD, Plaintiff and Appellant,

v.

GOEPPINGER-CURRAN DEVELOPMENT, Defendant and Respondent.

The petition for review is denied.

George, C.J., was absent and did not participate.

SUPREME COURT
FILED

APR 23 2008

Frederick K. Ohlrich Clerk

Deputy

Werdegar

Acting Chief Justice

Exhibit "B"

COURT OF APPEAL - STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION ONE

San Diego County Superior Court - Main
P.O. Box 120128
San Diego, CA 92112

RE: BURK N. ASHFORD,
Plaintiff and Appellant,
v.
GOEPPINGER-CURRAN DEVELOPMENT et al.,
Defendant and Respondent.

D048647
San Diego County No. GIN036241

* * * REMITTITUR * * *

I, Stephen M. Kelly, Clerk of the Court of Appeal of the State of California, for the Fourth Appellate District, certify the attached is a true and correct copy of the original opinion or decision entered in the above-entitled case on January 24, 2008, and that this opinion or decision has now become final.

_____ Appellant _____Respondent to recover costs.
_____ Each party to bear own costs.
_____ Costs are not awarded in this proceeding.
_✓_ Other (See Below)

Respondents are awarded their costs on appeal.

Witness my hand and the seal of the Court affixed this APR 2 9 2008

STEPHEN M. KELLY, Clerk

By: ____________________
Deputy Clerk

cc: All Parties (Copy of remittitur only. Cal. Rules of Court, rule 8.272(d).)

Exhibit "C"

PROOF OF SERVICE
LIST

CALIFORNIA SUPREME COURT
325 McAllister Street
San Francisco, CA 94102-4783

COURT OF APPEAL - Dist-4, Div-1
750 "B" Street #300
San Diego, CA 92101

Superior Court-Dept 29
325 S. Melrose Dr
Vista, CA 92083

Lawrence Alessio, esq
2550 "B" Street #710
San Diego, CA 92103

NOTICE OF LAWSUIT AND REQUEST FOR WAIVER OF SERVICE OF SUMMONS

TO: LAWRENCE ALESSIO, Esq
2550 Fifth Ave #710 - - San Diego, CA 92103

as Attorney of GOEPPINGER-CURRAN et al

A lawsuit has been commenced against you (or the entity on whose behalf you are addressed). A copy of the complaint is attached to this notice. It has been filed in the United States District Court for the SOUTHERN District of CALIFORNIA and has been assigned docket number

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waiver of service in order to save the cost of serving you with a judicial summons and an additional copy of the complaint. The cost of service will be avoided if I receive a signed copy of the waiver within five (5) days after the date designated below a the date on which this Notice and Request is sent. I enclose a stamped and addressed envelope (or other means of cost-free return) for your use. An extra copy of the waiver is also attached for your records.

If you comply with this request and return the signed waiver, it will be filed with the court and no summons will be served on you. The action will then proceed as if you had been served on the date the waiver is filed, except that you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent (or before 90 days from the date is you address is not in any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent authorized by those Rules, ask the court to require you (or the party on whose behalf you are addressed) to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of the summons, which is set forth at the foot of the waiver form.

I affirm that this request is being sent to you on behalf of the plaintiff this 29th day of May, 2008.

Signature of Plaintiff's Attorney or Unrepresented Plaintiff

A - Name of individual defendant (or name of officer or agent of corporate defendant)
B - Title or other relationship of individual to corporate defendant
C - Name of corporate defendant, if any
D - District
E - Docket number of action
F - Addressee must be given at least 30 days (60 days if located in foreign country) in which to return waiver

::ODMA\PCDOCS\WORDPERFECT\14365\1 May 5, 1999 (10:08am)

WAIVER OF SERVICE OF SUMMONS

TO: LAWRENCE ALESSIO, 2550 Fifth Ave #710, San Diego, CA 92103
(NAME OF PLAINTIFF'S ATTORNEY OR UNREPRESENTED PLAINTIFF)

I, acknowledge receipt of your request that I waive service of a summons in the action of ASHFORD v GOEPPINGER et al.., which is case number in the United States District Court for the SOUTHERN District of CALIFORNIA. I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I an acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I an acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after May 29, 2008 (DATE REQUEST WAS SENT), or within 90 days after that date if the request was sent outside the United States.

(DATE) ______________________________ (SIGNATURE)

Printed/Typed Name:

As (TITLE) of (CORPORATE DEFENDANT)

Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of a summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action had been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.